Committee Direction:

Following a Public Meeting held to discuss the merits of an application to permit the development of lands for a beauty salon within the existing single-detached dwelling at 800 Upper Wentworth Street (Hamilton) (ZAR-08-039), the Economic Development and Planning Committee, on June 15, 2010, deferred consideration of the Report pending the purchase of an adjacent property, municipally known as 362 Mohawk Road East, to facilitate consolidated development of the two properties by providing additional parking for the commercial use, while maintaining the existing residential use on 362 Mohawk Road East.

The original recommendation to Committee, contained within Report PED10135 (see Appendix “C”), recommended denial of the application as: the proposal did not conform to the City of Hamilton Official Plan and the approved Bruleville Neighbourhood Plan; the proposal represents an over-intensification of use, in that appropriate parking and manoeuvring for customers and employees cannot be provided on-site; the proposal represents “piece-meal” development and represents an encroachment of inappropriately designed commercial development into a stable residential area; and, approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan and the approved Browlands Neighbourhood Plan. At the Public Meeting, the Economic Development and Planning Committee heard from the applicant, who noted that he opened the beauty salon in
advance of planning and building approvals in order to earn income for the family. The applicant also noted that he was in negotiations with respect to acquiring an adjacent property, municipally known as 362 Mohawk Road East, located at the southwest corner of Mohawk Road East and Upper Wentworth Street. The purpose of acquiring this property was to use the rear portion of the property for additional parking for the proposed commercial use at 800 Upper Wentworth Street. The Economic Development and Planning Committee consequently deferred decision on the application with direction to bring forward an Information Report to the October 5, 2010, Economic Development and Planning Committee. This decision was approved by Council on June 23, 2010.

Information:

The subject property located at 800 Upper Wentworth Street is comprised of approximately 374 square metres of land located on the southwest corner of Upper Wentworth Street and Mohawk Road West (see Appendix “A”). Uses surrounding the site include low density residential to the west, retail commercial uses to the east and south of the property, and Sackville Memorial Park to the north. The site is currently designated “Residential” in the Hamilton Official Plan and the Bruleville Neighbourhood Plan, and is zoned “C” (Urban Protected Residential - Single Family Dwelling) District in the Hamilton Zoning By-law No. 6593. The subject property was formally used as a single-detached dwelling until the beauty salon was opened in early 2010.

Since the submission of the Zoning Amendment Application in August 2008, staff has worked closely with the applicant in attempting to address issues, notably, the lack of parking on the subject lands and the lack of space on the subject lands for proper manoeuvring space. Several options were proposed by both the applicant and staff; however, none of the alternatives could address all of the traffic and design related issues. As a result, staff could not support the Zoning Amendment Application on the basis of a lack of appropriate space on the subject property for parking, manoeuvring, and landscaping.

Staff also had concerns that rezoning the subject property could represent “leapfrogging” of commercial development on the west side of Upper Wentworth Street and Mohawk Road East. Currently, the subject property is surrounded by residential uses, and rezoning the subject property would result in commercial activity within an existing residential neighbourhood.

The applicant proposed to purchase the adjacent property located at 362 Mohawk Road East, where the required parking area could be expanded to the rear yard of the property, thus providing additional parking spaces for employees and customers, and further manoeuvring space for proper vehicular access to and from Upper Wentworth Street. Staff and the Ward Councillor consulted with the applicant in early June 2010, and advised that staff is amendable to the proposal if provided that the two properties are merged in title, that the applicant consults with staff in addressing parking and
manoeuvring issues, and that the existing residential use in the single-detached dwelling remains. The applicant purchased the residential property located at 362 Mohawk Road East in mid-July 2010. The applicant met with staff in late July 2010, and presented parking lot design options. Staff reviewed the options and proposed an alternative to the design options (see Appendix “B”). The applicant subsequently agreed to staff’s alternative design option, and submitted a Zoning Amendment fee and a re-circulation fee in early August, 2010. A Zoning Amendment fee and re-circulation fee is required to include 362 Mohawk Road East as part of the current application for 800 Upper Wentworth Street.

**Conclusion**

As the applicant submitted a Zoning By-law Amendment application and preliminary site plan in early-August 2010, staff will be preparing a staff report and related zoning schedule to be brought forward to the Economic Development and Planning Committee in early 2011.

- Appendix “A”: Location Map
- Appendix “B”: Preliminary Site Plan Showing Alternative Design Option
- Appendix “C”: Staff Report PED10135

:TL
Attachs. (3)
CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Economic Development and Planning Committee

WARD(S) AFFECTED: Ward 7

COMMITTEE DATE: June 15, 2010

SUBJECT/REPORT NO:
Application to Amend Hamilton Zoning By-law No. 6593 for the Property Located at 800 Upper Wentworth Street (Hamilton) (PED10135) (Ward 7)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development Department

PREPARED BY:
Timothy Lee
(905) 546-2424, Ext.1249

SIGNATURE: 

RECOMMENDATION:

(a) That Zoning By-law Amendment Application ZAR-08-039, by Quang Do, Owner, for a modification to the "C" (Urban Protected Residential - etc.) District, to permit a personal service establishment within the existing building located at 800 Upper Wentworth Street (Hamilton), as shown on Appendix "A" to Report PED10135, be denied for the following reasons:

(i) That the proposal does not conform to the City of Hamilton Official Plan and the approved Bruleville Neighbourhood Plan;

(ii) That the proposal represents an over-intensification of use, in that appropriate parking and manoeuvring for customers and employees cannot be provided on-site;

(iii) That the proposal is 'piece-meal' development and represents encroachment of inappropriately designed commercial development into a stable residential area; and,

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(iv) That approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan and the approved Bruleville Neighbourhood Plan.

EXECUTIVE SUMMARY

The purpose of the proposed Zoning By-law Amendment, is to permit the conversion of the existing single detached dwelling to a commercial use for the purpose of a beauty salon (see Appendix “A”). The original Zoning By-law Amendment proposed to convert a portion of the existing single detached dwelling to a commercial use for a beauty salon, and to maintain the remaining portion of the building as a residential use.

The proposal cannot be supported as: it does not conform to the City of Hamilton Official Plan and the approved Bruleville Neighbourhood Plan; the proposal represents an over-intensification of use, in that appropriate on-site parking and manoeuvring cannot be provided; it is ‘piece-meal’ development and represents encroachment of inappropriately designed commercial development into a stable residential area; and approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan and approved Bruleville Neighbourhood Plan.

Alternatives for Consideration - See Page 11.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

The subject lands are approximately 374.8 square metres in area, with frontage on Upper Wentworth Street (see Appendix “A”). The size of the existing single detached dwelling is approximately 124.4 square metres. Currently, the subject lands are zoned “C” (Urban Protected Residential, etc.) District, which permits a single detached residential dwelling. The Zoning By-law Amendment would modify the current zoning to permit the conversion of the existing single detached dwelling to a commercial use for the purpose of a beauty salon.
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The application was submitted in mid-July, 2008. Traffic Engineering staff had concerns with the lack of parking and manoeuvring on the subject lands, and that the only available parking was in the single car garage. In addition, vehicles entering the subject property would have to back out onto Upper Wentworth Street, causing potential conflicts with pedestrian and vehicular traffic. The applicant initially proposed to pave the entire front yard to allow for a passenger drop-off, but this was not supported due to minimal landscaping in the front yard (see Appendix “C”). The applicant later proposed a temporary hammerhead in the front yard to address the concerns of staff so that vehicles dropping off customers would be able to exit the driveway without backing onto Upper Wentworth Street (see Appendix “B”). This scenario eliminates the availability of parking on-site and, as a result, did not address the potential parking conflicts for future customers and employees. In addition, the proposed temporary hammerhead would also result in minimal landscaped area being provided on site as the majority of the front yard would be paved.

Staff has advised the applicant that he could operate the business as a ‘home occupation’, subject to the provisions found in Section 2(2)(iii) of the Hamilton Zoning By-law. Should the beauty salon be permitted as a ‘home occupation’, the business would be limited to one hairdresser, one comb-out centre, and one hair styling sink.

**Details of Submitted Application**

**Location:** 800 Upper Wentworth Street

**Owner:** Quang Do

**Applicant:** Tim Doan

**Property Description:**

- **Frontage:** 12.1m (approximately)
- **Lot Depth:** 30.7m
- **Area:** 0.037 ha.

**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Detached Dwelling</td>
<td>&quot;C&quot; (Urban Protected Residential, etc.) District</td>
<td></td>
</tr>
</tbody>
</table>

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Surrounding Lands:

West
Single Detached Dwellings
“C” (Urban Protected Residential, etc.) District

North
Single Detached Dwellings
“C” (Urban Protected Residential, etc.) District

East
Commercial Retail; Religious Institution/Low Rise Apartment

“H/S-840 ” (Community Shopping and Commercial - Modified) District; “E-2/S-789” (Multiple Residential Dwellings - Modified) District

South
Home Occupation and Single Detached Residential

“AA” (Agricultural) District and “C” (Urban Protected Residential, etc.) District

POLICY IMPLICATIONS

Places to Grow

The application has been reviewed with respect to the Places to Grow Plan. The application is consistent with the guiding principles of Policy 1.2.2) with respect to building compact, vibrant, and complete communities, and providing for different approaches to managing growth that recognizes the diversity of communities in the Greater Golden Horseshoe. In addition, Policy 2.2.2.1)(h) encourages cities and towns to develop as complete communities with a diverse mix of land uses, and a range of housing types and easy access to local stores and services. As a result, the proposal conforms to the Places to Grow Plan.

Provincial Policy Statement (PPS)

The application is consistent with the policies of the PPS that accommodates an appropriate range and mix of residential and employment uses (Policies 1.1.1.b and 1.3.1), and focuses growth in Settlement Areas (Policy 1.1.3.1). As the nature of the application is for a change in zoning to permit the conversion of the existing single detached dwelling to a commercial use for the purposes of a beauty salon, the application is consistent with the Provincial Policy Statement.
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Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C.3.1 outlines that a wide range of urban uses, as defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. As the application is to permit the conversion of the entire existing single detached dwelling to a commercial use, where full municipal services are available, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated “Residential” on Schedule “A”, Land Use Concept Plan, in the City of Hamilton Official Plan. The following policies would apply:

“A2.1.3) Within areas designated RESIDENTIAL, land uses compatible to dwellings and serving the needs of local residents will be permitted, including, but not limited to:

iv) Limited individual or groups of commercial uses on sites not exceeding 0.4 hectares in area, excluding Automobile Service Centres, in accordance with the Commercial Policies, as set out in Subsection A.2.2 of this Plan.

2.1.6) Where compatible uses are permitted, to preserve the amenities of and support RESIDENTIAL USES in the area, new development will, subject to the Zoning By-law:

i) Be required to be provided with adequate yards, off-street parking and loading, landscaping, screening, buffering, or other such measures, as determined by Council.

2.2.26) The maximum site areas of LOCAL COMMERCIAL development will not exceed 0.4 hectares in keeping with the intention that LOCAL COMMERCIAL facilities are to serve local Residential areas only with convenience goods and personal services.

2.2.27) Notwithstanding the above provisions, when considering new development in this category, Council will give preference to the grouping of individual LOCAL COMMERCIAL uses in suitable locations to prevent the scattering of such establishments throughout Residential areas.

2.2.38) Where a proposal is made for a COMMERCIAL development in which proposed parking and/or loading space is less than generally required, it must be demonstrated by the proponent, to the satisfaction of Council,

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that the proposal will not lead to nuisances through the parking or loading of vehicles on land or streets adjacent to the use.

D.2.2) The detailed planning for the distribution and location of various land uses in each PLANNING UNIT will be determined or reviewed through the preparation of NEIGHBOURHOOD PLANS. In this regard, Council will ensure that all new development and/or redevelopment complies with the provisions of this Plan and the NEIGHBOURHOOD PLAN ..."

The applicant has not demonstrated that there are adequate yards to provide for off-street parking, manoeuvring, landscaping, and buffering. Furthermore, the proposal does not conform with the approved Bruleville Neighbourhood Plan.

Based on the foregoing, the application does not conform to the policies of the City of Hamilton Official Plan.

**New Urban Hamilton Official Plan (Council Adopted)**

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for approval, but is not yet in effect. The subject lands are designated "Mixed-Use - Medium Density" on Schedule E-1, which permits commercial uses such as personal services. In addition, the range of commercial uses is intended to serve the surrounding community as well as day-to-day retail facilities and services to residents in the immediate area.

The following policies would apply:

"B.3.3.2.3 Urban design should foster a sense of community pride and identity by:

a) Respecting existing character, development patterns, built form, and landscape.

B.3.3.10.4 Where surface parking is proposed, it should be located to the sides and rear of buildings to enable the development of a continuous street edge and the creation of quality urban spaces consistent with Section B.3.3.2 - General Policies and Principles.

C.4.5.15 Parking and loading requirements regulated through the Zoning By-law or site plan approval shall ensure adequate parking for the site, while avoiding excess parking supply that can discourage transit use and active transportation choices.

C.4.5.18 The negative impacts of parking on urban environments and pedestrian activity shall be minimized through:
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a) placement of parking and loading areas at the rear of buildings, where feasible.

E.4.6.23 In the absence of a secondary plan, each applicant for new development shall submit a concept plan for the property that addresses how:

c) ii) the siting and orientation of buildings which do not preclude future intensification;

F.1.2.7 Neighbourhood Plans are policies adopted by Council resolution and do not form part of the Official Plan. Any proposal for development or redevelopment must conform to the designations and policies in the Neighbourhood Plan."

The applicant has not demonstrated that the development respects the development patterns and landscaping of the neighbourhood. This portion of the neighbourhood is primarily residential, and the proposed use would break the existing residential development pattern by introducing a commercial use resulting in 'leap-frog' development.

Policies in the Urban Hamilton Official Plan encourage parking to be located to the side or rear yard of the subject property. In addition, adequate parking should be provided on site. Due to site constraints, parking cannot be located in the side or rear yards, and there is insufficient space in the front yard to accommodate adequate parking spaces and maneuvering.

Finally, the application must conform to the Neighbourhood Plan and its policies. As the designation of the subject property is "Residential" within the Bruleville Neighbourhood Plan, the proposed use is not permitted.

Based on the foregoing, the application would not conform to policies of the Council adopted New Urban Hamilton Official Plan.

Bruleville Neighbourhood Plan

The subject property is designated "Residential" under the approved Bruleville Neighbourhood Plan, and does not permit commercial uses. Properties further to the south on Upper Wentworth Street (for example, 832, 836, and 840 Upper Wentworth Street) are designated "Commercial/Residential Conservation". This designation permits up to 1,000 square feet of professional offices or commercial uses generating similar traffic volumes in existing residences and in-fill residences of similar character. However, the subject property is six lots to the north of the designated area.
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Based on the foregoing, the application does not conform to the Council-adopted Bruleville Neighbourhood Plan.

RELEVANT CONSULTATION

Agencies/Departments Having no Comment or Objections

- Strategic Planning Section, Public Works Department.
- Taxation Division, Corporate Services Department.

Traffic Engineering and Operations Section, Public Works Department

It is a standard condition for developing properties that all vehicles must be able to enter the property from the municipal roadway in a forward manner, turn around on site, and re-enter the municipal roadway in a forward manner. This property, with the existing front yard parking spaces, does not provide any manoeuvring, and will require drivers to reverse onto Upper Wentworth Street, which is a safety hazard to pedestrians, cyclists, and vehicle occupants. The applicant has indicated that alternate parking arrangements can be arranged with the adjacent property (to the south?). As the existing front yard parking is not appropriate for a commercial use, we recommend that rezoning to permit the commercial use beauty salon not be approved until the applicant demonstrates, to the satisfaction of the Manager of Traffic Engineering and Operations, that staff/customer parking and manoeuvring can be provided on the site in accordance with our requirements.

Comments on the submitted sketch:

The sketch provided includes dimensions from the front of the building to the back of the municipal sidewalk. We advise that all front yard dimensions must be measured to the Upper Wentworth Street road allowance limit rather than the sidewalk.

5.0m x 5.0m vision triangles (minimum 3.0m x 3.0m) are required adjacent to the access and the Upper Wentworth Street road allowance limit in which there should be no sight line obstruction (fence, vegetation, vehicles) higher than 0.7m. We note that at the north side of the property there is a fence and shed which obstructs the vision for outbound drivers. Although these objects are on the adjacent property, they severely restrict sightlines for a proposed commercial use and, therefore, the location of the access at the north lot line, and design, do not provide the required sightlines.

Any new or change in use of an access to Upper Wentworth Street requires the applicant/owner to apply for and receive an Access Permit from the Public Works Department. Prior to commencing any work within the road allowance, we recommend that the applicant/owner contact all the respective Utilities. Additional information
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regarding the Permit can be obtained from Leanne Ryan at 905-546-2424, Extension 5925. The Permit fee is $65.37 and prior to commencing any works a Site Plan, approved by the City, must be submitted by the applicant. All work within the Upper Wentworth Street road allowance must be completed by a contractor bonded with the City.

ANALYSIS / RATIONALE FOR RECOMMENDATION

1. The proposal cannot be supported for the following reasons:

   (i) It does not conform to the City of Hamilton Official Plan and the approved Bruleville Neighbourhood Plan;

   (ii) It represents an over-intensification of use, in that on-site parking and manoeuvring for customers and employees cannot be provided;

   (iii) It is ‘piece-meal’ development and represents encroachment of inappropriately designed commercial development into a stable residential area; and,

   (iv) Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan and approved Neighbourhood Plan.

2. The Zoning By-law Amendment application was originally submitted to permit the partial conversion of the existing single detached dwelling to a commercial use for the purpose of a beauty salon, and to maintain a portion of the existing dwelling for a residential use. However, the application has since been amended to permit a beauty salon within the entire existing building.

3. Staff has advised the applicant that they could operate the proposed beauty salon business as a 'home occupation', subject to the special provisions found in Section 2(2)(iii) of the Hamilton Zoning By-law. Should the beauty salon be established as a 'home occupation', the business would be limited to one hairdresser, one comb-out centre, and one hair styling sink, provided it does not take up more than 15% of the habitable floor area of the dwelling unit.

4. The proposed development does not conform to policies of the City of Hamilton Official Plan due to the overall functionality of the site. Policy 2.1.6 of the Official Plan requires that commercial development located within adjacent residential uses require adequate yards, off-street parking, landscaping, screening, buffering, or other such measures, as determined by Council. In addition, Policy 2.2.38 requires that when a proposal is made for a commercial development where the proposed parking is less than required, it must be demonstrated that
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the proposal will not lead to nuisances through the parking of vehicles on land or streets adjacent to the use.

Parking for the proposed commercial use is not a requirement as the existing building is approximately 124.4 square metres, which is below the minimum 450 square metres where parking is required. However, the business will generate demands in parking for employees and customers, and staff is of the opinion that parking should be provided based on the nature of the business. The applicant initially had discussions with several landowners within walking distance of the subject property in 2008; however, the applicant was unable to secure off-site parking through private agreements with adjacent landowners.

Discussions were held between the applicant and staff to address the issue of parking and manoeuvring throughout 2009, however, staff could not support the application as the overall functioning of the subject property could not be adequately addressed (see Appendices “B” and “C”). Due to the size of the subject property, parking cannot be located in the rear yard as the side yard is insufficient to allow for an appropriate two-way driveway. The front yard has approximately 12 metres of frontage and 6 metres of depth, and has sufficient space for only one drop-off space. The existing single car garage contains one parking space. The lack of appropriate parking could potentially result in parking nuisances whereby customers and employees park in other locations, such as nearby Sackville Hill Memorial Park or other commercial retail stores located around the intersection of Mohawk Road and Upper Wentworth Street.

There is an existing single car driveway that provides manoeuvring for the parking space in the single car garage, in which this arrangement is appropriate for residential uses. However, due to the anticipated traffic demands by the proposed use, vehicles would have to back out onto Upper Wentworth Street, creating a potentially dangerous situation for pedestrians, on-coming vehicles on Upper Wentworth, and drivers who exit the subject property in a reverse manner onto Upper Wentworth.

Due to functionality issues of the proposed use on the subject property, it does not conform to the policies of the Hamilton Official Plan. Staff does not support the application as it would pose vehicular and pedestrian hazards along Upper Wentworth Street, and is an over-intensification of use.

5. The Council adopted Urban Hamilton Official Plan has designated lands along Upper Wentworth Street, between Mohawk Road West and the Lincoln Alexander Parkway, as “Mixed-Use - Medium Density”, which permits a full range of retail and service commercial uses, including personal service retail uses.
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Policies in the Urban Official Plan require that the application respect the development patterns within the neighbourhood. The proposed use will be situated within an established residential area, breaking the existing residential development pattern by introducing a commercial use within the neighbourhood resulting in ‘leap-frog’ commercial development. Staff is of the opinion that this should be avoided to prevent scattered, ‘piece-meal’ commercial development within a stable residential area.

6. The subject property is designated “Residential” in the approved Bruleville Neighbourhood Plan. Properties further south along Upper Wentworth Street (832 - 860) are designated “Commercial/Residential Conservation”, which permits commercial and residential uses. The purpose of this designation is to allow for up to 1,000 square feet of professional offices or commercial uses generating similar traffic volumes in existing residences, thereby maintaining the residential character along this portion of Upper Wentworth Street.

The subject property is six lots to the north of this area. Any consideration of expanding the “Commercial/Residential Conservation” boundary should be subject to a review to identify opportunities/constraints rather than on a ‘piece-meal’ basis.

As a result, the proposed beauty salon does not conform to Section D, Policy 2.2, of the Hamilton Official Plan with respect to the requirement that new development or redevelopment must comply with the provisions of the Official Plan and the Neighbourhood Plan.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the use will remain as residential, and a ‘home occupation’ business would be permitted, subject to all zoning regulations with respect to home occupations.

**CORPORATE STRATEGIC PLAN**


**Skilled, Innovative & Respectful Organization**

- Opportunity for employee input in management decision making.
- Council and SMT are recognized for their leadership and integrity.

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Financial Sustainability

- Effective and sustainable Growth Management.
- Generate assessment growth/non-tax revenues.

Healthy Community

- Plan and manage the built environment.

APPENDICES / SCHEDULES

Appendix “A”: Location Map
Appendix “B”: Concept Plan Showing Temporary Hammerhead
Appendix “C”: Initial Option Showing Passenger Drop-Off

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Attachs. (3)